WAKE COUNTY	2012 DEC 18	AM 9: 2	>6 IN THE GENERAL COURTS OF JUSTICE
	WAR OF COURT	TV. C.S.(	SUPERIOR COURT DIVISION
NORTH CAROLINAWAKE COUNTY, C.S.C.			FILE NO.: 12 CV\$ 17047

ВҮ	
THE NORTH CAROLINA STATE BAR PETITIONER	) ) )
v.	) CONSENT ORDER VACATING PRELIMINARY INJUNCTION
MICHAEL C. CASEY, ATTORNEY RESPONDENT	FRELIMINARY INJUNCTION

THIS MATTER is before the undersigned Judge of Superior Court of Wake County on motion of Respondent. Petitioner, the North Carolina State Bar was represented by Carmen Hoyme Bannon. Douglas J. Brocker represented the Respondent, Michael C. Casey. Based upon the pleadings herein and the consent of the parties, the Court makes the following:

## FINDINGS OF FACT

- 1. On 7 December 2012, this Court entered a Consent Order of Preliminary Injunction prohibiting Respondent from handling entrusted funds until further order of the Court. On 11 December 2012, this Court entered an Amended Order of Preliminary Injunction which permitted Casey to make four specific disbursements of entrusted funds in order to prevent significant harm to clients and/or third parties.
- 2. As stated in the 7 December 2012 Order, the basis for the injunction in this matter was: In December 2011, an unknown third party breached the computer security for Casey's trust account and wired \$319,811.00 out of Casey's trust account without Casey's knowledge or authorization. Casey did not have the means to replenish the stolen funds. After the money was stolen, Casey continued to receive entrusted funds and deposit them into the trust account from which the theft occurred, thereby utilizing entrusted funds deposited since December 2011 to satisfy the claims of other clients whose funds were among those stolen by the unknown third party.
- 3. The State Bar does not have any evidence that Casey was complicit in the unknown third party's theft from the trust account.
- 4. Casey is now able to replenish the entire \$319,811,00 that was stolen from his trust account, which would remedy the deficit in the account and thereby end the pattern of utilizing entrusted funds for the benefit of someone other than the beneficial owner.

- 5. Prior to Casey's 3 December 2012 report to the State Bar about the circumstances described in paragraph 2, above, the Grievance Committee of the State Bar had issued a subpoena for cause audit for Casey's attorney trust account. The subpoena for cause audit was issued based on Casey's admission—in response to State Bar inquiry—that he had mistakenly made four transfers of entrusted funds into his operating account when he was not entitled to the entrusted funds that were transferred.
- 6. As of the date of this order, the State Bar has not completed an audit of Casey's trust account because Casey has not yet produced documents pursuant to the subpoena for cause audit.

BASED UPON THE FOREGOING FINDINGS and the consent of the parties, the Court makes the following Conclusions of Law:

- 1. The circumstances which justified entry of the Consent Order of Preliminary Injunction have changed and it is no longer necessary for Casey to be enjoined from handling client or fiduciary funds.
- 2. Casey should be permitted to resume serving in a fiduciary capacity, including as trustee, escrow agent, personal representative, executor or attorney-in-fact.
- 3. The State Bar's general investigation into Casey's handling of entrusted funds is ongoing, and the State Bar is not precluded from seeking a subsequent preliminary injunction if its pending investigation reveals evidence that entrusted funds are in jeopardy notwithstanding Casey's replenishment of the stolen funds.

THEREFORE, IT IS HEREBY ORDERED:

This Court's 7 December 2012 Consent Order of Preliminary Injunction and 11 December 2012 Amended Order of Preliminary Injunction are hereby VACATED.

This the 18 day of December, 2012.

Wake County Superior Court Judge

WE CONSENT

Carmen Hoyme Bannon, Deputy Counsel

The North Carolina State Bar

Michael C. Casey

Respondent

Douglas J. Brocker

Attorney for Respondent